

## NOTICE OF PROPOSED AGENCY ACTION

**SUBJECT:** Payment for Nursing Facility Services

**AGENCY:** Massachusetts Executive Office of Health and Human Services

**SUMMARY:** Final adoption of 101 CMR 206.00: Standard Payments to Nursing Facilities including additional post-public hearing amendments

The Executive Office of Health and Human Services (EOHHS) will adopt additional amendments to 101 CMR 206.00: *Standard Payments to Nursing Facilities*, upon final adoption and filing of the regulation originally filed on October 1, 2021. The additional amendments establish new rate add-ons, amend existing rate add-ons, further update certain COVID-19 related payments, and make technical corrections to the originally filed amendments. The proposed amendments will also include the methodology to distribute a recent Massachusetts legislative appropriation for workforce retention and recruitment initiatives. These amendments will be effective January 15, 2022, except where the regulatory language specifically provides for a different effective date. These amendments are in addition to the amendments to 101 CMR 206.00, originally filed on an emergency basis and effective October 1, 2021, for which a public hearing was held on October 26, 2021.

EOHHS will hold a second public hearing on January 28, 2022, at 10:00 a.m. to provide additional opportunity for interested parties to submit testimony on these additional amendments. EOHHS expects to finalize the amendments by March 23, 2022, incorporating the initially proposed amendments effective for dates of service beginning October 1, 2021, and these additional amendments effective for dates of service beginning January 15, 2022.

### Goals, Objectives, and Description of the Proposed Methodology

The additional amendments include: 1) a \$200 member-specific add-on to account for the heightened costs associated with caring for residents with a history of chronic homelessness; 2) a \$30 member-specific rate add-on for residents diagnosed with substance use disorder and residing in qualifying nursing facilities; 3) a \$200 member-specific add-on for residents admitted to nursing facilities from acute hospitals on Saturday or Sunday, applicable for the weekend in which the resident is admitted; 4) an increase to the Medicaid transitional add-on from \$130 per qualifying member per day to \$200 per qualifying member per day for the first 60 days after admission; 5) adjustments to the criteria for nursing facilities that may be eligible for the add-on for members requiring services relating to severe mental and neurological disorders; 6) further revisions to COVID-19-related payments; 7) the methodology for distributing the recent \$25 million legislative appropriation for nursing facility workforce retention and recruitment initiatives, through one-time supplemental payments to nursing facilities; and 8) technical corrections to the originally filed amendments.

EOHHS is implementing the amendments related to the rate add-ons, COVID-19-related payments and technical corrections, subject to federal approval, to provide clarity and support through the ongoing COVID-19 pandemic, and ensure that payments are reasonable and adequate to meet the costs that must be incurred by efficiently and economically operated facilities. EOHHS projects these amendments will increase annual aggregate MassHealth expenditures by approximately \$8 million, in rate year 2022.

EOHHS is implementing the one-time supplemental payment methodology to distribute \$25 million for workforce retention and recruitment initiatives to implement a Massachusetts legislative requirement, and to alleviate current nursing facility workforce constraints.

Copies of the amended regulation and rates will be available at EOHHS or may be viewed at EOHHS's website at [www.mass.gov/regulations/101-CMR-20600-standard-payments-to-nursing-facilities](http://www.mass.gov/regulations/101-CMR-20600-standard-payments-to-nursing-facilities). To register to testify at the hearing and to get instructions on how to join the hearing online, go to [www.mass.gov/service-details/executive-office-of-health-and-human-services-public-hearings](http://www.mass.gov/service-details/executive-office-of-health-and-human-services-public-hearings). To join the hearing by phone, call (646) 558-8656 and enter meeting ID 935 397 8200# when prompted.

Individuals may submit written comments by emailing [ehs-regulations@mass.gov](mailto:ehs-regulations@mass.gov). Please submit electronic comments as an attached Word document or as text within the body of the email with the name of the regulation in the subject line. All submissions must include the sender's full name and address. Individuals who are unable to submit comments by email should mail written comments to EOHHS, c/o D. Briggs, 100 Hancock Street, 6<sup>th</sup> Floor, Quincy, MA 02171. EOHHS specifically invites comments as to how the proposed amendments may impact beneficiary access to care. EOHHS will also schedule a public hearing on these amendments.

Posted January 7, 2022